

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

DAVID JAMES MILCENDEAU,)	
)	
Petitioner,)	
)	
v.)	Case No. 1:24-cv-00108-SRC
)	
BILL STANGE,)	
)	
Respondent,)	

Memorandum and Order

Upon review of the record, the Court notes that David Milcendeau filed a pro se application in the United States District Court for the Western District of Missouri for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254. Doc. 1. On June 18, 2024, the action was transferred to this Court. Doc. 2. Then, the Court ordered Milcendeau to, no later than July 18, 2024, (1) pay the \$5 filing fee or submit a motion to proceed in forma pauperis and (2) to file a signed amended petition on a Court-provided form. Doc. 4. The Court warned Milcendeau that if he “fails to comply with this Order, the Court will dismiss this action without prejudice and without further notice.” *Id.*

On July 1, 2024, the Court received correspondence from Milcendeau that included a letter and the first page of the Court’s habeas form. Doc. 5. In his correspondence he states:

I am letting you know that I do wish to proceed. I have put the proper name in place and sent it to you. My case worker has or will send you the filling [sic] fee. If I have failed to do anything else that is required of me, please let me know.

Id. at 2. Despite indicating that he wished to proceed with this action, Milcendeau has failed to file a signed amended application for writ of habeas corpus brought pursuant to section 2254, and he has failed to file a motion to proceed in forma pauperis or pay the \$5 filing fee.

When a petitioner fails to comply with a Court Order, the Court “may, on its own motion, dismiss an actual for failure to comply.” *Haley v. Kansas City Star*, 761 F.2d 489, 490 (8th Cir. 1985) (citations omitted); *see also Brown v. Frey*, 806 F.2d 801, 803 (8th Cir. 1986). Because Milcendeau failed to comply with the Court’s Order, doc. 4, the Court dismisses this action without prejudice. Further, the Court certifies that an appeal from this dismissal would not be taken in good faith.

So ordered this 31st day of July 2024.



STEPHEN R. CLARK
CHIEF UNITED STATES DISTRICT JUDGE